

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation)
Against:)**

Howard Jay Senter, M.D.)

Case No. 800-2016-024366

**Physician's and Surgeon's)
Certificate No. G 88850)**

**Respondent)
_____)**

DECISION

**The attached Stipulated Surrender of License and Order is hereby
adopted as the Decision and Order of the Medical Board of California,
Department of Consumer Affairs, State of California.**

This Decision shall become effective at 5:00 p.m. on October 1, 2019.

IT IS SO ORDERED September 24, 2019

MEDICAL BOARD OF CALIFORNIA

**By: Kimberly Kirchmeyer
Kimberly Kirchmeyer
Executive Director**

1 XAVIER BECERRA
Attorney General of California
2 STEVEN D. MUNI
Supervising Deputy Attorney General
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8 *Attorneys for Complainant*

9 **BEFORE THE**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 800-2016-024366

13 **HOWARD JAY SENTER, M.D.**
14 **24 Pintail Dr.**
Pittsburg, PA 15238

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 **Physician's and Surgeon's Certificate No. G**
16 **88850**

17 Respondent.
18

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
23 of California (Board). She brought this action solely in her official capacity and is represented in
24 this matter by Xavier Becerra, Attorney General of the State of California, by Ryan J. Yates,
25 Deputy Attorney General.

26 2. Howard Jay Senter, M.D. is representing himself in this proceeding and has chosen
27 not to exercise his right to be represented by counsel.
28

3. On or about December 3, 2010, the Board issued Physician's and Surgeon's Certificate No. G 88850 to Howard Jay Senter, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2016-024366 and will expire on June 30, 2020, unless renewed.

JURISDICTION

4. On or about June 7, 2019, Accusation No. 800-2016-024366 was filed before the Board, and is currently pending against respondent. A true and correct copy of Accusation No. 800-2016-024366 and all other statutorily required documents were properly served on Respondent. Respondent elected to surrender his Physician's and Surgeon's Certificate No. G 88850. A copy of Accusation No. 800-2016-024366 is attached as Exhibit 1 and incorporated by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 800-2016-024366. Respondent also has carefully read, and fully understands the effects of this Stipulated Surrender of License and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in Accusation No. 800-2016-024366; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded him pursuant to the California Administrative Procedure Act, the California Code of Civil Procedure, and all other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth and/or referenced above.

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1 **CULPABILITY**

2 8. Respondent understands that the charges and allegations in Accusation No. 800-2016-
3 024366, if proven at hearing, constitute cause for imposing discipline upon his Physician's and
4 Surgeon's Certificate.

5 9. For the purpose of resolving the Accusation without the expense of uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
7 basis for the charges in the Accusation and that those charges constitute cause for discipline.
8 Respondent hereby gives up his right to contest that cause for discipline exists based on those
9 charges.

10 10. Respondent understands that by signing this stipulation he enables the Board to issue
11 an order accepting the surrender of his Physician's and Surgeon's Certificate without further
12 process.

13 **CONTINGENCY**

14 11. Pursuant to Business and Professions Code section 2224, subdivision (b), the
15 Executive Director of the Medical Board of California has been delegated the authority to adopt
16 or reject a stipulation for surrender of a Physician's and Surgeon's Certificate.

17 12. The parties agree that this Stipulated Surrender of License and Disciplinary Order
18 shall be null and void and not binding upon the parties unless approved by the Executive Director
19 on behalf of the Medical Board of California. Respondent fully understands and agrees that in
20 deciding whether or not to approve and adopt this Stipulated Surrender of License and
21 Disciplinary Order, the Executive Director and/or the Medical Board may receive oral and written
22 communications from its staff and/or the Attorney General's Office. Communications pursuant
23 to this paragraph shall not disqualify the Executive Director, the Board, any member thereof,
24 and/or any other person from future participation in this or any other matter affecting or involving
25 respondent. In the event that the Executive Director on behalf of the Medical Board does not, in
26 her discretion, approve and adopt this Stipulated Surrender of License and Disciplinary Order,
27 with the exception of this paragraph, it shall not become effective, shall be of no evidentiary
28 value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either

1 party hereto. Respondent further agrees that should this Stipulated Surrender of License and
2 Disciplinary Order be rejected for any reason by the Executive Director on behalf of the Board,
3 respondent will assert no claim that the Board, or any member thereof, was prejudiced by
4 its/his/her review, discussion and/or consideration of this Stipulated Surrender of License and
5 Disciplinary Order or of any matter or matters related hereto.

6 13. The Executive Director shall have a reasonable period of time in which to consider
7 and act on this stipulation after receiving it. By signing this stipulation, respondent fully
8 understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation
9 prior to the time the Executive Director considers and acts upon it.

10 **ADDITIONAL PROVISIONS**

11 14. This Stipulated Surrender of License and Disciplinary Order is intended by the parties
12 herein to be an integrated writing representing the complete, final and exclusive embodiment of
13 the agreement of the parties in the above-entitled matter.

14 15. The parties understand and agree that copies of this Stipulated Surrender of License
15 and Disciplinary Order, including copies of the signatures of the parties, may be used in lieu of
16 original documents and signatures and, further, that such copies and signatures shall have the
17 same force and effect as the originals.

18 16. In consideration of the foregoing admissions and stipulations, the parties agree that
19 the Executive Director of the Medical Board may, without further notice to or opportunity to be
20 heard by respondent, issue and enter the following Order on behalf of the Board:

21 **ORDER**

22 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 88850, issued
23 to respondent Howard Jay Senter, M.D., is surrendered and accepted by the Medical Board of
24 California.

25 1. The surrender of Respondent's Physician's and Surgeon's Certificate No. G 88850
26 and the acceptance of the surrendered license by the Board shall constitute the imposition of
27 discipline against respondent. This stipulation constitutes a record of the discipline and shall
28 become a part of respondent's license history with the Medical Board of California.

2. Respondent shall lose all rights and privileges as a Physician and Surgeon in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2016-024366 shall be deemed to be true, correct and admitted by respondent when the Board determines whether to grant or deny the petition.

5. Respondent may not petition for reinstatement of a revoked or surrendered license for three (3) years from the effective date of this Decision.

6. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2016-024366 shall be deemed to be true, correct, and admitted by respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Disciplinary Order. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. G 88850. I enter into this Stipulated Surrender of License and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED:

9/4/19

HOWARD JAY SENTER, M.D.
Respondent

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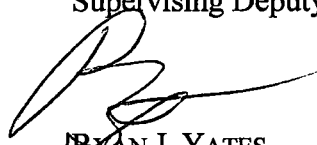
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: 9/9/19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
STEVEN D. MUNI
Supervising Deputy Attorney General



RYAN J. YATES
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2016-024366

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FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO June 7 2019
BY Sara Espartero ANALYST

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 800-2016-024366

Howard Jay Senter, M.D.
24 Pintail Dr.
Pittsburg, PA 15238

ACCUSATION

Physician's and Surgeon's Certificate
No. G 88850,

Respondent.

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about December 3, 2010, the Medical Board issued Physician's and Surgeon's Certificate No. G 88850 to Howard Jay Senter, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2020, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code provides in pertinent part that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code states, in pertinent part:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"(d) Incompetence.

"..."

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6. Section 2266 of the Code states:

“The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.”

PERTINENT DRUG INFORMATION

7. Acetaminophen with Codeine Phosphate – Generic name for the drug Tylenol with Codeine. Acetaminophen with codeine is classified as an opioid analgesic and antitussive combination product used to treat moderate to moderately severe pain. Prior to October 6, 2014, Acetaminophen with codeine was a Schedule III controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.13(e). Currently, it is a Schedule II controlled substance. Acetaminophen with codeine is a dangerous drug pursuant to California Business and Professions Code section 4022 and is a Schedule II controlled substance pursuant to California Health and Safety Code section 11055, subdivision (b).

8. Alprazolam – Generic name for the drug Xanax. Alprazolam is a short-acting benzodiazepine used to treat anxiety, and is a Schedule IV controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.14. Alprazolam is a dangerous drug pursuant to California Business and Professions Code section 4022 and is a Schedule IV controlled substance pursuant to California Health and Safety Code section 11057(d).

9. Diazepam – Generic name for Valium. Diazepam is a long-acting member of the benzodiazepine family used for the treatment of anxiety and panic attacks. Diazepam is a Schedule IV controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.14 (c), and Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

10. Zolpidem Tartrate – Generic name for Ambien. Zolpidem Tartrate is a sedative and hypnotic used for short-term treatment of insomnia. Zolpidem Tartrate is a Schedule IV controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.14(c). It is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

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FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

11. Respondent's license is subject to disciplinary action under section 2234, subdivision (b), of the Code, in that he committed gross negligence during the care and treatment of Patient A.¹

12. On or about June 30, 2011, Respondent began prescribing medication to his close relative, Patient A.²

13. Between January 6, 2014 and September 29, 2017, Respondent prescribed or re-filled the following controlled substances to Patient A:

Date Filled	Prescription	Quantity	Dosage	Schedule
January 6, 2014	Acetaminophen-Codeine Phosphate	60 tablets	300 milligrams / 30 milligrams	II
April 8, 2014	Zolpidem Tartrate	30 tablets	10 milligrams	IV
June 5, 2014	Zolpidem Tartrate	30 tablets	10 milligrams	IV
July 1, 2014	Diazepam	30 tablets	5 milligrams	IV
July 2, 2014	Zolpidem Tartrate	30 tablets	10 milligrams	IV
September 9, 2014	Diazepam	30 tablets	5 milligrams	IV
October 7, 2014	Diazepam	30 tablets	5 milligrams	IV
November 19, 2014	Diazepam	60 tablets	5 milligrams	IV
January 14, 2015	Diazepam	60 tablets	5 milligrams	IV
March 16, 2015	Diazepam	60 tablets	5 milligrams	IV
May 2, 2015	Diazepam	60 tablets	5 milligrams	IV
July 20, 2015	Diazepam	60 tablets	5 milligrams	IV
September 14, 2015	Diazepam	60 tablets	5 milligrams	IV
October 10, 2015	Diazepam	60 tablets	10 milligrams	IV

¹ Patient names and information have been redacted to protect privacy. All witnesses will be identified in discovery.

² Conduct alleged to have occurred before March 20, 2012, is for informational purposes only.

1	November 22, 2015	Diazepam	60 tablets	10 milligrams	IV
2	January 17, 2016	Diazepam	60 tablets	10 milligrams	IV
3	March 1, 2016	Diazepam	60 tablets	10 milligrams	IV
4	April 18, 2016	Diazepam	60 tablets	10 milligrams	IV
5	July 6, 2016	Diazepam	60 tablets	10 milligrams	IV
6	August 15, 2016	Diazepam	60 tablets	10 milligrams	IV
7	September 25, 2016	Diazepam	60 tablets	10 milligrams	IV
8	November 3, 2016	Diazepam	60 tablets	10 milligrams	IV
9	November 30, 2016	Diazepam	60 tablets	10 milligrams	IV
10	January 2, 2017	Diazepam	60 tablets	10 milligrams	IV
11	February 7, 2017	Diazepam	60 tablets	10 milligrams	IV
12	March 7, 2017	Diazepam	60 tablets	10 milligrams	IV
13	March 26, 2017	Diazepam	60 tablets	5 milligrams	IV
14	May 8, 2017	Diazepam	60 tablets	5 milligrams	IV
15	June 13, 2017	Diazepam	60 tablets	5 milligrams	IV
16	June 27, 2017	Alprazolam	60 tablets	1 milligram	IV
17	July 10, 2017	Diazepam	60 tablets	5 milligrams	IV
18	September 14, 2017	Diazepam	60 tablets	5 milligrams	IV
19	September 29, 2017	Alprazolam	60 tablets	1 milligram	IV

14. During Respondent's care and treatment of Patient A, Respondent failed to create and maintain adequate and accurate medical records. Specifically, during Respondent's care and treatment of Patient A, Respondent failed to include any records whatsoever, documenting any patient interaction, such as a history, physical exam, or progress note. The medical records that Respondent did produce consist solely of the patient's birth certificate, some divorce paperwork, a mostly illegible pharmacy profile, and some billing records.

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1 15. Although Respondent was aware that it is inappropriate to treat family members in
2 the vast majority of medical scenarios, Respondent nonetheless continued to treat Patient A. The
3 American Medical Association, in Code of Medical Ethics Opinion 1.2.1 provides the following,
4 in pertinent part:

5 "In general, physicians should not treat themselves or members of their own
6 families. However, it may be acceptable to do so in limited circumstances:

7 (a) In emergency settings or isolated settings where there is no other qualified
8 physician available. In such situations, physicians should not hesitate to treat
9 themselves or family members until another physician becomes available.

10 (b) For short-term, minor problems.

11 When treating self or family members, physicians have a further responsibility to:

12 (c) Document treatment or care provided and convey relevant information to the
13 patient's primary care physician.

14 (d) Recognize that if tensions develop in the professional relationship with a family
15 member, perhaps as a result of a negative medical outcome, such difficulties may be
16 carried over into the family member's personal relationship with the physician.

17 (e) Avoid providing sensitive or intimate care especially for a minor patient who is
18 uncomfortable being treated by a family member.

19 (f) Recognize that family members may be reluctant to state their preference for
20 another physician or decline a recommendation for fear of offending the physician."

21 During Respondent's care and treatment of Patient A, Respondent, who was Patient A's primary
22 physician, lived approximately 3,000 miles from Patient A, and had no plans for emergency
23 treatment of Patient A. Additionally, he treated her for several years, during which time he
24 prescribed a variety of controlled substances to her.

25 16. On or about October 31, 2018, Respondent was interviewed by a Board Investigator.
26 During the interview, Respondent stated the following after being asked if he ever documented a
27 medical record for Patient A:

28 "I know I should have. I know the California Statute states that I should have. I did not."

17. When asked if he thought it was appropriate to prescribe to a family member,
Respondent replied, in part: "So...was it appropriate for me to do this? No, it was clearly
inappropriate, but I felt pressured by...my daughter in distress."

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1 18. Respondent committed gross negligence in his care and treatment of Patient A, in that
2 he maintained a physician-patient relationship with a close family member, from approximately
3 3,000 miles away, for approximately six (6) years, during which time, he prescribed numerous
4 controlled substances.

5 19. Respondent additionally committed gross negligence in his care and treatment of
6 Patient A when he failed to maintain adequate and accurate medical records regarding his care
7 and treatment of her.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Repeated Negligent Acts)**

10 20. Respondent's license is subject to disciplinary action under section 2234, subdivision
11 (c), of the Code, in that he committed repeated negligent acts during the care and treatment of
12 Patient A, as more fully described in paragraphs 11 through 19, above, and those paragraphs are
13 incorporated by reference as if fully set forth herein.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Failure to Maintain Adequate and Accurate Records)**

16 21. Respondent's license is subject to disciplinary action under section 2266 of the Code,
17 in that he failed to maintain adequate and accurate medical records relating to his care and
18 treatment of Patient A, as more fully described in paragraphs 11 through 20, above, and those
19 paragraphs are incorporated by reference as if fully set forth herein.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(General Unprofessional Conduct)**

22 22. Respondent is further subject to disciplinary action under sections 2227 and 2234, of
23 the Code, in that he has engaged in conduct which breaches the rules or ethical code of the
24 medical profession, or conduct which is unbecoming of a member in good standing of the
25 medical profession, and which demonstrates an unfitness to practice medicine, as more
26 particularly alleged in paragraphs 11 through 21, above, which are hereby realleged and
27 incorporated by reference as if fully set forth herein.

28 ///

1 **PRAYER**

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Medical Board of California issue a decision:

4 1. Revoking or suspending Physician's and Surgeon's Certificate No. G 88850, issued
5 to Howard Jay Senter, M.D.;

6 2. Revoking, suspending or denying approval of Howard Jay Senter, M.D.'s authority to
7 supervise physician assistants and advanced practice nurses;

8 3. Ordering Howard Jay Senter, M.D., if placed on probation, to pay the Board the costs
9 of probation monitoring; and

10 4. Taking such other and further action as deemed necessary and proper.

11 DATED: June 7, 2019


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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